

<b>COMPLIANCE BOARD OPINION NO. 99-15</b>
---

September 23, 1999

*Mr. Dan Fefferman*

The Open Meetings Compliance Board has considered your complaint of August 24, 1999, in which you alleged three violations of the Open Meetings Act by the Task Force to Study the Effects of Cult Activities on Public Senior Higher Education Institutions. The allegations in the complaint are these: that the Task Force's adoption of a mission statement on July 2 indicated the holding of an unlawful meeting on that date; that the Task Force's "Subcommittee on Characteristics" met on August 9 in an unlawfully closed session; and that the Chairman refused, in violation of the Act, to make available to attendees of the August 9 and 10 meetings of the Task Force a document that was distributed to Task Force members.<sup>1</sup>

In a timely response on behalf of the Task Force, its Chairman, William T. Wood, Esquire, denied that the Act had been violated. As to the first allegation, Mr. Wood explained that the Task Force did not meet on July 2. Rather, on that date Task Force members voted by e-mail to approve a mission statement that had previously been discussed at public meetings. As to the second allegation, Mr. Wood indicated that the Subcommittee on Characteristic Behaviors was not a "public body" subject to the Act, having been created by action of the Chairman, but that, in any case, its August 9 meeting was held in open session after prior public notice. As to the third allegation, Mr. Wood indicated that the document in question was the draft of the Task Force's final report and confirmed that, because it was a draft, its distribution was limited to Task Force members.

The Compliance Board discerns no violation of the Open Meetings Act in any of the three circumstances identified in your complaint. As we observed in a prior opinion to you, "the Act does not inhibit a public body from conducting business in writing, rather than at a meeting." Compliance Board Opinion No. 99-12 (August 26, 1999). In this instance, the Task Force conducted a piece of its business, approval of its mission statement, through a form of writing – the collection of votes embodied in e-mail messages. An e-mail canvass

---

<sup>1</sup> Your letter also alleged certain breaches of the Task Force's procedural rules and improper participation by a nonmember. Because these are matters outside the jurisdiction of the Compliance Board, the Board will not address them.

of the members of a public body does not involve the convening of a quorum and therefore is not a “meeting” subject to the Act. *See* 81 *Opinions of the Attorney General* \_\_\_\_ (1996) [Opinion No. 96-016 (May 22, 1996)].

As our prior opinion also made clear, the Open Meetings Act does not apply to a subcommittee of the Task Force created by action of the Chairman alone. Such a subcommittee is not a “public body” subject to the Act.<sup>2</sup>

Finally, the Act was not violated by the Chairman’s decision to limit distribution of a draft document to Task Force members only. The right of the public to observe the conduct of business at an open meeting does not include a right under the Act to obtain documents (except for the minutes and any tape recordings of the meeting). As the Attorney General put it, “even if members of a public body refer to certain documents at a public meeting, the Open Meetings Act does not require that the documents themselves be made public; the status of the documents would be determined by other law.” Office of the Attorney General, *Open Meetings Act Manual* 11 (3d ed. 1997).<sup>3</sup>

For these reasons, the Compliance Board finds no violation of the Act.

OPEN MEETINGS COMPLIANCE BOARD

Walter Sondheim, Jr.

Courtney McKeldin

Tyler G. Webb

---

<sup>2</sup> In light of this conclusion, we need not consider whether the Subcommittee on Characteristic Behaviors complied with the Act in connection with its August 9 meeting.

<sup>3</sup> The Compliance Board expresses no view about the status of the draft document under the Maryland Public Information Act. The Board has no jurisdiction over Public Information Act issues.